

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

Serigne Khabane Lane,

Petitioner

v.

Corrections Captain, Corrections  
Division, City of Henderson Police  
Department, Michael Bernackle, Field Office  
Director, Immigration and Customs  
Enforcement, et al.,

Respondents

Case No. 2:25-cv-1001-CDS-DJA

## Order Vacating Hearing

In this habeas proceeding under 28 U.S.C. § 2241, petitioner-plaintiff Serigne Khabane Lane filed, on June 6, 2025, a notice of voluntary dismissal under Federal Rule of Civil Procedure 41(a)(1)(A)(i), indicating that he intends to voluntarily leave the country. ECF No. 4. On June 8, 2025, he filed an amended notice further indicating that (1) the parties resolved this matter after I entered an order granting temporary relief and setting a briefing schedule and hearing, (2) the parties will not be filing further responses addressing the merits of this matter, and (3) the hearing scheduled for Monday, June 9, 2025, at 9:30 a.m. is also no longer necessary and should be vacated. ECF No. 5.

Rule 41(a) permits a petitioner to dismiss an action voluntarily, without court order, by filing a notice of dismissal at any time before the opposing party serves either an answer or a motion for summary judgment. *See Howard v. On Habeas Corpus*, 2013 U.S. Dist. LEXIS 36285 (E.D. Cal. Mar. 15, 2013) (granting habeas petitioner's request for voluntary dismissal under Rule 41(a)). The respondents have not filed any answer or motion for summary judgment in this action. Therefore, under Rule 41(a)(1), this action is deemed dismissed by operation of law, without any court order. *See Commercial Space Management Co. v. Boeing Co.*, 193 F.3d 1074, 1078 (9th

1 Cir. 1999) (“it is beyond debate that a dismissal under Rule 41(a)(1) is effective on filing, no  
2 court order is required, the parties are left as though no action had been brought, the defendant  
3 can’t complain, and the district court lacks jurisdiction to do anything about it”). The dismissal  
4 is without prejudice. Therefore, it is ordered that the June 9 hearing, is vacated.

5 Dated: June 9, 2025

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8 Cristina D. Silva  
9 United States District Judge  
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